

HOUSE BILL REPORT

2SHB 1951

As Amended by the Senate

Title: An act relating to creating a program for public-private partnerships for the operation and management of salmonid hatcheries now closed or scheduled for closure by the department of fish and wildlife during the 2009-2011 biennium.

Brief Description: Regarding the operation and management of salmonid hatcheries.

Sponsors: House Committee on General Government Appropriations (originally sponsored by Representatives Finn, Short, Takko, Walsh, Blake, Johnson, McCune, Pearson, Williams and Van De Wege).

Brief History:

Committee Activity:

Agriculture & Natural Resources: 2/10/09, 2/17/09 [DPS];
General Government Appropriations: 2/25/09 [DP2S(w/o sub AGNR)].

Floor Activity

Passed House: 3/6/09, 96-0.
Senate Amended.
Passed Senate: 4/9/09, 44-1.

Brief Summary of Second Substitute Bill

- Directs the Washington Department of Fish and Wildlife to establish a program that uses public-private, or tribal partnerships for the continued operation and management of state-owned salmonid hatcheries now closed or scheduled for closure during the 2009-2011 biennium.

HOUSE COMMITTEE ON AGRICULTURE & NATURAL RESOURCES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 12 members: Representatives Blake, Chair; Chandler, Ranking Minority Member; Smith, Assistant Ranking Minority Member; Jacks, Kretz, Lias, McCoy, Nelson, Ormsby, Pearson, Van De Wege and Warnick.

Staff: Anna Jackson (786-7190)

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

HOUSE COMMITTEE ON GENERAL GOVERNMENT APPROPRIATIONS

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Agriculture & Natural Resources. Signed by 12 members: Representatives Darneille, Chair; Takko, Vice Chair; McCune, Ranking Minority Member; Hinkle, Assistant Ranking Minority Member; Armstrong, Blake, Dunshee, Kenney, Pedersen, Sells, Short and Van De Wege.

Minority Report: Do not pass. Signed by 2 members: Representatives Hudgins and Williams.

Staff: Owen Rowe (786-7391)

Background:

Fish hatcheries have operated in Washington for more than a century, beginning with one hatchery on the Kalama River in 1895. The Washington Department of Fish and Wildlife (WDFW) currently operates 88 hatcheries throughout the state. Seven salmon hatcheries, however, are proposed for closure in the Governor's 2009-2011 Omnibus Operating Budget, including the Colville, Omak, Arlington, Mossyrock, McKernan, Bellingham, and Palmer Ponds hatcheries.

Summary of Second Substitute Bill:

The WDFW is directed to establish a program that uses public-private or tribal partnerships for the continued operation and management of state-owned salmonid hatcheries now closed or scheduled for closure during the 2009-2011 biennium. To implement the program, the WDFW must accept and review applications from private sector or tribal partners to manage and operate selected salmonid hatcheries until the WDFW chooses to resume sole management and operation. The application process must be accelerated for any hatchery currently in operation to ensure ongoing salmon production.

Selection of Private Sector or Tribal Partners.

The WDFW must develop and apply criteria identifying the appropriateness of a potential private sector partner. The criteria is subject to the provisions of RCW 77.100.040 (Cooperative projects -- sale of surplus salmon eggs and carcasses) and must attempt to ensure that the private sector partner has a long-range business plan, which may include a special harvest of hatchery salmon to ensure the long-range future solvency of the partnership. Partners must either: (1) be qualified under section 501(c)(3) of the Internal Revenue Code; (2) meet an equivalent level of organizational legitimacy; or (3) be a federally-recognized tribe. The WDFW must prioritize partnership applications that maximize resumption or continuation of existing hatchery production in a manner consistent with the mandate in RCW 77.04.012 to maintain the economic well-being and stability of the fishing industry.

Contents of Partnership Agreements.

All partnership agreements must ensure that the WDFW maintain full authority and oversight of the selected hatcheries. In addition, partnership agreements may not adversely affect

existing state laws, agency rules, hatchery management policy involving species listed under the federal Endangered Species Act, or any applicable tribal hatchery management policy or recreational and commercial harvest policy. Finally, all partnership agreements must contain a provision requiring the private sector partner to hold the WDFW and the state harmless from any civil liability arising from the private sector partner's participation in the agreement.

EFFECT OF SENATE AMENDMENT(S):

Includes for-profit private entities in the list of potential partners and removes the requirement that the WDFW maintain full authority and oversight over the selected hatcheries.

Removes the requirement that the criteria developed and applied by the WDFW to select a partner be subject to RCW 77.100.040; instead providing that the partner's long-range business plan may include the sale of hatchery surplus salmon, including eggs and carcasses.

Removes language referencing a special harvest of hatchery salmon as a potential component of a partner's long-range business plan.

Adds the requirement that partnership agreements must be consistent with existing collective bargaining agreements, and requires that partners conducting hatchery operations maintain staff with comparable qualifications to those identified in the class specifications for WDFW fish hatchery personnel.

Specifies that partnership agreements must identify any maintenance or improvements to be made to the hatchery facility and the source of funding for such improvements. If the funding is derived from state funds or revenue sources previously received by the WDFW, the work must be performed either by employees in the classified service or in compliance with the contracting procedures in RCW 41.06.142.

Provides that funds from the Regional Fisheries Enhancement Group Account may serve as replacement funding for salmon projects operated by the WDFW for the purposes of partnership agreements.

Provides that the bill supplements, and does not limit, other powers or authority of the WDFW.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony (Agriculture & Natural Resources):

(In support) The current economic condition of the state has led to the Governor's proposed closure of a half-dozen salmonid hatcheries throughout the state. Hatcheries contribute both

to the revenue of the WDFW and to the economy of the state in general. This bill would provide a safety net to help struggling salmonid hatcheries survive until the state can resume full operation and management of them, and it opens the door to the possibility of other private entities helping the state to fund the operation of these hatcheries. In addition, this bill would not interfere with any existing contracts or agreements.

(With concerns) The WDFW is already actively engaged in private partnership agreements and has the authority to accept donations from and to lease hatchery facilities to private entities, so this bill may not be necessary. In addition, language should be added to this bill to ensure that the WDFW conducts an open, transparent process for deciding on private partners.

(Opposed) This bill represents a significant departure from current management policies of state hatcheries. Allowing only the WDFW to oversee and assume plenary control of the selection of private sector partners is contrary to an open, transparent public process. In addition, in developing criteria for the selection of private sector partners, the WDFW should not be allowed to include a special harvest of hatchery salmon to ensure the long range solvency of the partnership. This cost-recovery provision could have several negative impacts, including the harvest of low-value salmon that could serve to depress salmon prices for fishermen and on the open market. An economic impact analysis of this bill should be conducted to determine whether salmonid harvesters will be negatively impacted. Similarly, an economic cost-benefit analysis should be conducted to determine whether and how the state will benefit from this bill.

Staff Summary of Public Testimony (General Government Appropriations):

(In support) Chum salmon are important to commercial fisherman; they are economic engines for the state. This bill is a good idea that can turn a fiscal crisis into an opportunity. Hatchery salmon are important ecologically, as they impart nutrients back to the rivers.

(In support with amendment) The state is projected to close several hatcheries next biennium. That means fewer fish, and fewer people will buy licenses. There are a number of individuals that are interested in participating in running hatcheries. The McKernan hatchery provides an economic benefit of \$8 million to the economy of the state, and only costs \$160,000 to run. We'd like to see an amendment to clarify that another program will not be negatively affected by its ability to sell carcasses and eggs.

(Opposed) Cost recovery aspect of the bill could have several negative impacts, including the harvest of low value salmon that could influence the market for chum salmon and depress prices to fishermen. If the market is saturated with low quality fish state tax revenues could be affected. This bill would require the non-tribal fleet to pay for operation of the hatchery to propagate salmon. The treaty-tribes would harvest half the salmon but not incur any of the cost.

Persons Testifying (Agriculture & Natural Resources): (In support) Representative Finn, prime sponsor; Ed Owens, Purse Seine Vessel Owners; Paul Ancich, Regional Fisheries

Enhancement Groups; Ezra Eickmeyer, Fishing Industry and Salmon Harvesters Political Action Committee; and Jack Field, Washington Fish Growers Association.

(With concerns) Ron Warren, Washington Department of Fish and Wildlife.

(Opposed) David Harsila, Puget Sound Harvesters Association.

Persons Testifying (General Government Appropriations): (In support) Ezra Eickmeyer and Bob Franks, Fisheries Industries Salmon Harvesters (FISH) PAC.

(In support with amendment) Ed Owens, Purse Saine Vessel Owners Coalition of Coastal Fisheries.

(Opposed) David Harsila, Puget Sound Harvesters Association.

Persons Signed In To Testify But Not Testifying (Agriculture & Natural Resources):
None.

Persons Signed In To Testify But Not Testifying (General Government Appropriations):
None.